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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,741	11/03/2004	Toshiro Miyazaki	2004-1092A	4568
53349 7590 12/10/2008 WENDEROTH, LIND & PONACK L.L.P. 2033 K. STREET, NW SUITE 800 WASHINGTON, DC 20006				
EXAMINER				
LEE, JOHN W				
ART UNIT		PAPER NUMBER		
2624				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/501,741

**Applicant(s)**

MIYAZAKI, TOSHIRO

**Examiner**

JOHN Wahnkyo LEE

**Art Unit**

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) 4 and 8 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3, 5-7 and 9-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The response received on 23 September 2008 has been placed in the file and was considered by the examiner. An action on the merits follows.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-3, 5-7 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 5-7 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101" – publicly available at USPTO.GOV, "memorandum to examining corp"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a

statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over KODAK DC/280 ("KODAK DC240/280 Zoom Digital Camera User's Guide") in view of Park (US 5,231,490).

Regarding claim 1, KODAK DC 280 discloses an image enlarging apparatus (KODAK DC 280, "KODAK DC 280 is a zoom digital camera") comprising: an imaging means for outputting a photographed image of a subject, wherein a vertical line count and a horizontal line count of the photographed image are greater than a vertical line count and a horizontal line count of a television format (chapter DC280 Specification, "KODAK DC 280 is a zoom digital camera that can take pictures having resolution up to 2.3 millions pixels that are 1901X1212 and are larger than TV formats such as NTSC and PAL that have 648X486 and 768X576 resolution."); an image cropping means for receiving the photographed image output from said imaging means (chapter Camera

Identification and DC280 Specification, "KODAK DC280 also has a video output that can be connected to a TV by converting the images taken by the KODAK DC280 camera to the NTSC or PAL format"), for cropping the photographed image (chapter DC280 Specification, "3X digital zoom function"), and for generating a cropped image, the photographed image being cropped by cutting off at least a top portion and a bottom portion of the received photographed image (chapter DC280 Specification, "3X digital zoom function") such that a vertical line count and a horizontal line count of the received photographed image are not compressed (chapter Camera Identification and DC280 Specification, "KODAK DC280 also has a video output that can be connected to a TV by converting the images taken by the KODAK DC280 camera to the NTSC or PAL format"); and an enlargement processing means for the selected image output from said switching means (chapter DC 280 Specification, "It is well known of the ordinary skill in the art that digital zoom of the camera specifies the camera can crop a portion of the image and then enlarges it back to the size, and the KODAK DC280 has a 3X digital zoom function."). Moreover, KODAK DC 280 discloses an image compression processing means for receiving the photographed image output from said imaging means, for compressing the photographed image, for generating a compressed image ("KODAC DC 280 has a function that can adjust the picture quality, which is the compression of the image"); a switching means for selecting at least one of the cropped image generated by said image cropping means and the compressed image generated by said image compression processing means and for outputting the selected image ("It is readily apparent that the user can select the zoom function or/and the adjustment of

the picture quality"); and when said switching means selects the cropped image, said image cropping means performs the cropping by instantaneously enlarging the photographed image according to a predetermined enlargement ratio without compressing the photographed image and outputs the instantaneously enlarged photographed image to said switching means as the selected cropped image (chapter DC280 Specification, "KODAK DC280 has a 3X digital zoom function, and if the user do not use the picture quality adjustment function, then the picture will be output without any compression"). However, KODAK DC 280 does not have rest of the process or functions disclosed in the claim limitations of claim 1. Instead of KODAK DC 280, Park discloses an image cropping means for generating a cropped image the vertical line count and the horizontal line count-matching the vertical line count and the horizontal line count of the television format (col. 1, lines 7-20, "converting aspect ratio and number of scanning lines of a video signal of the HDTV video image that has ratio of 16 to 9 and scanning lines above 1050 into a NTSC standard TV format having aspect ratio of 3 to 4 and scanning lines 525.").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Park's apparatus in KODAK DC 280 to suit for converting more than two modes such as a zoom-up mode and a wide mode as suggested by Park (col. 1, lines 62-65) and to provide and perform an adjustment suitably with a simple structure and to prevent inconvenience as suggested by Takahashi (page 1, paragraphs [0014] and [0015]).

Regarding claims 5 and 9, claims 5 and 9 are analogous and correspond to claim

1. See rejection of claim 1 for further explanation.

Regarding claim 12, KODAK DC 280 discloses when said switching means selects the cropped image, the instantaneously enlarged photographed image being received by said enlargement processing means sooner and at a higher resolution than when said switching means select the compressed image ("It is readily apparent that if the zoom function can be at a higher resolution than the "good" function of the adjustment of the picture quality").

7. Claims 2-3, 6-7, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over KODAK DC/280 ("KODAK DC240/280 Zoom Digital Camera User's Guide") in view of Park (US 5,231,490), and further in view of Imaizumi et al. (US 6,236,389).

Regarding claim 2, KODAK DC280 and Park disclose or teach all the previous claim limitation except the claim limitation of claim 2. However, Imaizumi image cropping means specifies on the photographed image a start point at one corner of a rectangular cropped image and an end point at a diagonally opposite corner of the rectangular cropped image (Fig. 5, col. 6, lines 55-63, "a trimming frame TF is changed according to the movement of the cursor CU by the operator and displayed as a square shape with the point P1 and the cursor position as diagonal points").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Park's apparatus and Imaizumi's apparatus in KODAK DC

280 to accurately and quickly designate and image editing region and to improve operability of an image editing process as suggested by Imaizumi (col. 2, lines 50-58).

Regarding claim 3, Imaizumi further discloses comprising a cropping area determining means for setting a location of the image to be cropped image in from the photographed image (Fig. 6; abstract, "The trimming mode of Imaizumi's invention can move the trimming frame and can change the display shape in accordance with cursor and the position of the frame for the image editing region.").

Regarding claims 6 and 10, claims 6 and 10 are analogous and correspond to claim 2. See rejection of claim 2 for further explanation.

Regarding claims 7 and 11, claims 7 and 11 are analogous and correspond to claim 3. See rejection of claim 3 for further explanation.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN Wahnkyo LEE whose telephone number is (571)272-9554. The examiner can normally be reached on Monday - Friday (Alt.) 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jingge Wu/  
Supervisory Patent Examiner, Art Unit 2624

/John Wahnkyo Lee/  
Examiner, Art Unit 2624

